

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

A. DAVIES,

Plaintiff, No. CIV S-03-0014 LKK JFM P

vs.

Dr. K. LOW,

Defendants. ORDER

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

On July 26, 2006, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty days. On August 14 2006, plaintiff was granted until August 27, 2006 in which to file objections to the findings and recommendations, and plaintiff was advised that no further extensions of time would be granted.¹

¹ In addition to plaintiff's December 1, 2005 motion, the court had benefit of plaintiff's January 30, 2006 reply as well as his February 23, 2006 objections to the January 30, 2006 findings and recommendations. The January 30, 2006 findings and recommendations were vacated so the court could consider plaintiff's January 30 reply.

1 On August 17, 2006, plaintiff filed a document entitled "Ex Parte Request for
2 Reconsideration." Plaintiff seeks additional time to file objections.

3 However, on August 28, 2006, the magistrate judge issued findings and
4 recommendations recommending that defendants' motion for summary judgment be granted. In
5 light of that recommendation, granting plaintiff an extension of time to file objections to the
6 findings and recommendations addressing plaintiff's December 1, 2005 motion for temporary
7 restraining order would be futile. When seeking injunctive relief, plaintiff must show a "fair
8 chance of success on the merits" of his claim. Sports Form, Inc. v. United Press International,
9 Inc., 686 F.2d 750, 754 (9th Cir. 1982), quoting Benda v. Grand Lodge of International
10 Association of Machinists and Aerospace Workers, 584 F.2d 308, 315 (9th Cir. 1979). Based on
11 the record at present, plaintiff cannot make such a showing.

12 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-
13 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire
14 file, the court finds the findings and recommendations to be supported by the record and by
15 proper analysis.

16 Accordingly, IT IS HEREBY ORDERED that:
17 1. The findings and recommendations filed July 26, 2006, are adopted in full; and
18 2. Plaintiff's December 1, 2005 motion for temporary restraining order is denied.

19 DATED: September 11, 2006.

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LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT